

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN BILL GLASER**, on February 14, 2003 at 3:00 P.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Sen. Bob Story Jr., Vice Chairman (R)
Sen. Jerry W. Black (R)
Sen. Edward Butcher (R)
Sen. Mike Cooney (D)
Sen. Jim Elliott (D)
Sen. Royal Johnson (R)
Sen. Jeff Mangan (D)
Sen. Don Ryan (D)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Tari Elam, Committee Secretary
Connie Erickson, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 278, 2/4/2003; HJ 6, 2/11/2003;
SB 307, 2/4/2003
Executive Action: HJ 6

HEARING ON SB 278

Sponsor: SENATOR EDWARD BUTCHER

Proponents: NONE

Opponents: Erik Burke, MEA-MFT

Informational Witnessess: NONE

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 0.8 - 16.7}

SENATOR EDWARD BUTCHER, SD 47, Cascade County, introduced a bill requiring school districts to grant credit for certain post-secondary courses taken while the student is still in high school, and which requires the course count toward graduation requirements and student full-time status for ANB purposes. **SEN. BUTCHER** explained the bill arises from his knowledge of how ill prepared some high school graduates truly are when they reach college. This bill would allow those students who choose to seek out additional challenge by taking college level courses to use those courses toward meeting graduation requirements. Although some Montana high schools accept the credits, he would like to see the practice be universal. He indicated there may be a pervasive fear amongst teachers who see a student's achievement as a threat to standard practice. Regardless of any possible apprehension, however, he believes a student who puts forth the effort to go beyond the norm is more prepared and we should be supportive of our most ambitious and brightest students. He does not believe we are presently doing so. **SEN. BUTCHER** also indicated, to avoid potential conflict over funding levels, the bill provides that a student will be given full-time status for ANB purposes.

Opponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 17 - 20.2}

Erik Burke, MEA-MFT, expressed his organization's opposition to **SB 278**. While he agrees with **SEN. BUTCHER's** intention of providing students with a quality education, he believes the bill oversimplifies what is a complex arrangement between secondary and post-secondary institutions nation-wide. He thinks the bill does too little toward protecting a well defined partnership between teachers and districts. He is also concerned with

language in the bill which seems to suggest that each district will need to develop articulation agreements with each college. He does not believe school districts have the capacity to do this at this time.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 20.4 - 26.6}

SENATOR MIKE COONEY inquired whether he was correct in understanding **SEN. BUTCHER's** assertions regarding a school losing ANB if a student takes advanced courses. **SEN. BUTCHER** explained it is his understanding a school loses ANB credit.

SEN. COONEY posed the same question to **Mr. Burke**. **Mr. Burke** replied his understanding is a school does not lose credit but must make arrangements with the post-secondary institution to reimburse them for courses the student takes.

SENATOR BOB STORY, referring to line 18 of the bill, asked whether it was **SEN. BUTCHER's** intent that a student might substitute a lower level college course for a higher level high school course, noting the bill's language might be too broad. **SEN. BUTCHER** expressed appreciation to **SEN. STORY** for catching what is clearly a drafting error. **SEN. STORY**, referring to **SEN. COONEY's** question regarding ANB, asked whether the bill would allow a district to collect full ANB for a student taking a single post-secondary course. **SEN. BUTCHER** replied it is his intent to protect students by allowing them to take courses while, at the same time, protecting schools who may see the incursion as too great a loss. **SEN. STORY** stated he believes the language may be easily corrected.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 26.7 - 29}

SEN. BUTCHER noted, as stated by **Mr. Burke**, wherever a program like this is in place it is working very well. He sees a high school's questioning of a college accredited course to be problematic. **SEN. BUTCHER** believes a student who puts forth the initiative to improve his or her self should be rewarded, not penalized. He expressed appreciation to the Committee for their participation.

Sponsor: REPRESENTATIVE DEE BROWN

Proponents: Erik Burke, MEA-MFT

Opponents: NONE

Informational Witnesses: Bob Runkel, Director of Special
Education, Office of Public Instruction
(OPI)

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 29.7 - 31}

REPRESENTATIVE DEE BROWN, HD 83, Flathead County, brought forward a resolution urging the United States Congress and President George Bush to increase funding for special education by an amount sufficient enough to meet federal commitments under the "Individuals with Disabilities Education Act" (IDEA). REP. BROWN explained the resolution is in response to inadequate present levels of funding for federal programs under IDEA. She stated a similar resolution was presented in the 1999 legislature and she believes it is necessary to do so again. Since state and local school district budgets are stretched to the limit, she believes it is important original federal commitments be met.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 1.7 - 2.4}

Erik Burke, MEA-MFT, conveyed his organization's support for the resolution. He noted the resolution addresses a concern which has been at the forefront in the state for a very long time, and he believes it is important to remind Congress of the obligations which arose when they passed the IDEA.

Informational Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 2.6 - 6.4}

Bob Runkel, Director of Special Education, OPI, provided the Committee with a chart which demonstrates levels of special education expenditures between 1989 and 2002 EXHIBIT (eds33a01). He stated costs for special education have risen substantially over the past few years, specifically noting the distribution of those costs between state, federal, and local governments. Mr. Runkel stated the original promise made by Congress in the mid-1970's was that special education would be funded at forty

percent (40%) of the national average per pupil expenditure. If the federal government was meeting this commitment, there would be far less demand to increase local obligations.

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 6.6 - 25}

SENATOR JIM ELLIOTT inquired whether the dollar values on the chart are nominal or indexed for inflation. **Mr. Runkel** replied in the affirmative to nominal. Noting his response, **SEN. ELLIOTT** asked if it is correct then the state's share for special education funding is declining rather than remaining constant. **Mr. Runkel** replied in the affirmative.

SENATOR EDWARD BUTCHER asked whether **REP. BROWN** thought it should be within the state's prerogative to select programs that will be offered until such time as the federal government meets its' commitment. **REP. BROWN** stated although that may be her opinion it is not the topic of the resolution. **SEN. BUTCHER** asked whether it should be the future direction of the state. **REP. BROWN** replied New Mexico has taken that direction and the negative impacts have been felt at the local level. She does not believe it is a correct path because there are children in need of these services. In other words, to rebel against the federal government in the manner **SEN. BUTCHER** proposes would result in harm to those children in need. She believe those children are the most important part of the equation. **SEN. BUTCHER** expressed concern over the number of children being identified as special education children, asking how much of the problem can be attributed to incompetent teachers. **REP. BROWN** replied most of the children who fall under the umbrella of special education are not like the children of the 1950's. These children come to school with many more issues than in the past having been raised in families where both parents work, or within a single parent household, and having had substantially more free time. However, regardless of the reasons, we are obligated to educate these children. **SEN. BUTCHER** asked how the state can leverage the federal government to meet its' obligations. **REP. BROWN** did not reply.

SEN. STORY asked **Mr. Runkel** about the growth in numbers of students enrolled in special education since 1990. **Mr. Runkel** replied he did not have the exact figures with him, but there has been growth in the number of children with disabilities being served. **SEN. STORY**, referring to the years covered by **Mr. Runkel's** spreadsheet (see EXHIBIT 1), stated it is his understanding significant changes have been made to approved

methods for delivery of special education services; for example, "main-streaming." He asked **Mr. Runkel** if his understanding was correct. **Mr. Runkel** replied in the affirmative. **SEN. STORY** asked whether the changes have proven more or less costly than previous methods. **Mr. Runkel**, conveying he had no empirical evidence to prove his assertion, explained it is logical to conclude delivery to a group of children is less costly than delivery to a single student located within a regular classroom. He briefly discussed evolution of the "least restrictive environment" doctrine as developed through various court cases. **SEN. STORY**, referring again to **Mr. Runkel's** chart, stated in 1990-91 total costs for special education services were approximately \$42 million for 17,500 students; in 2002, costs were \$82 million for 19,000 students. It was his understanding increasing costs can be attributed to vast increases in the number of students being served. He stated that does not seem to be correct according to the chart and asked **Mr. Runkel** to explain. **Mr. Runkel** replied the same subject was discussed in depth during their appropriations sub-committee meetings. He noted there are significantly more para-professionals today than in 1991-92, and there are many more children with disabilities requiring more costly services. **Mr. Runkel** offered examples of autism, severe emotional disturbance, and the provision of in-class health care as types of services that are more costly to provide.

SENATOR TOM ZOOK, referring to EXHIBIT 1, noted between 1989 and 1999, the state's appropriation amounted to approximately \$33 million per year. He asked **Mr. Runkel** for the amount allocated for the present biennium. **Mr. Runkel** replied the state increased special education funding for 2002 - 2003 by \$1 million. **SEN. ZOOK** asked about the \$1.4 million increase. **Mr. Runkel** responded that figure arises from the 1999 session where a \$1.4 million increase was provided for 2000 - 2001 biennium. **SEN. ZOOK** stated he continues to be perplexed by the reality that Montana has declining student enrollment overall, and yet there are ever increasing numbers of children being placed into special education. He asked **Mr. Runkel** how the inconsistency can be explained. **Mr. Runkel** responded there are numerous reasons for the outcome. He referred to **REP. BROWN's** testimony regarding the children of today, and also noted there are more opportunities for identifying children than in the past. He referred to a national study presently being done on the increasing numbers of children with autism which hopes to identify potential causation. **Mr. Runkel** then discussed how demands placed upon children by ever increasing educational standards creates pressure that is often too difficult for some children and results in their needing special services.

SENATOR ROYAL JOHNSON, acknowledging the presence of several teachers in the audience, noted one of those present taught him a great deal about teaching given present day concerns. At one time, this particular teacher had a class of twenty-eight students in which seven were on full-time medications.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 25 - 27}

REP. BROWN expressed her appreciation to the various interested parties. She believes one topic which needs addressing is the transient nature of our society. She indicated many of the neediest children come from families who are in flux. She also provided examples of her own teaching experience, stating former practice would place special needs children in a single room together, but now children are mainstreamed and aides enter and leave the regular classroom on a continual basis. **REP. BROWN** believes it is important to convey the message that schools are experiencing true difficulty providing mandated services and desperately need for commitments to be met.

HEARING ON SB 307

Sponsor: **SENATOR DON RYAN**

Proponents: **Shawn Bubb, Director of Insurance Services,
Montana School Boards Association (MTSBA)
Bob Odermann, Executive Director of Finance,
Great Falls School District**

Opponents: **Ronda Carpenter, Montana County Treasurers'
Association**

Informational Witnesses: **Kathy Fabiano, on behalf of the State
Superintendent of Public Instruction**

Opening Statement by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 27.6 - 28.8}

SENATOR DON RYAN, SD 22, Great Falls, presented a bill which provides further clarification to present law allowing school districts to invest money in programs other than those offered by county treasurers. He explained the bill addresses how schools

take money into special revenue accounts and how those dollars are invested. He noted the bill is at the request of **MTSBA** because of a problem brought to their attention by a Great Falls clerk.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 28.9 - 31.5}

{Tape: 2; Side: A; Approx. Time Counter: 0.2 - 15.8}

Shawn Bubb, Director of Insurance Services, MTSBA, conveyed his organization's support of **SB 307**. He stated the bill is a "fine-tuning piece of legislation" which makes adjustments to laws passed in the 2001 legislative session. Specifically, 20-9-235 of the Montana Code Annotated will be revised to allow school districts to establish and maintain investment accounts other than those managed by various county treasurers. **Mr. Bubb** explained there is now an investment pool--Big Sky Investment Pool--which provides an opportunity for schools to maximize potential returns on investments. He provided the example of Great Falls School District which has been a member of the pool for over a year, and has experienced some difficulties due to terminology in the statutes. These changes, therefore, will make the process more fluid. He also noted the suggested changes are based on well established accounting practices. The second change proposed modifies the required term length for a contract between a district and county treasurer. At present, any agreement is binding for five years. **Mr. Bubb** indicated this requirement places a district presented with an opportunity for a special investment option at a substantial risk. They would prefer contracts be based on either an annual or other term basis. In order to facilitate the process, while still protecting various interests, they are willing to discuss what the optimal time should be. The third aspect addresses concerns over how money allocated from **OPI** is received by a district. He explained, at present, a county treasurer receives money from **OPI** and must then determine how the money should be distributed between districts. The proposed changes would allow for direct distribution to the district. **Mr. Bubb** requested the Committee recommend Do Pass on **SB 307**.

Bob Odermann, Executive Director of Finance, Great Falls School District, testified his district was the "guinea pig" for the Montana school investment pool structure over the past year. He explained the two options available to districts under present law. **Mr. Odermann** indicated Great Falls chose to establish an individual bank account which allows them to receive money and pay bills without going through the county treasurer. The program requires the district to report all activity to the state

on a regular basis, as well as to the county treasurer on a monthly basis. One problem remains, however, with regard to individual funds: each fund must have its own account. This causes unnecessary delays and is burdensome from an accounting perspective. **Mr. Odermann** is in favor of the proposed changes because they will allow districts more flexibility in investing and also promote individual fiscal responsibility on the part of the district. He also indicated the proposed change to term-length for contracts is necessary to facilitate participation.

Opponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 16 - 19.3}

Ronda Carpenter, Montana County Treasurers' Association, stated her organization's opposition to the bill arises primarily from the proposed change to term-length of contracts. When Great Falls School District changed their investment practice, they created an entirely new system. So too, the county treasurer's office. Their office is concerned, in the event problems arise, they will be placed in the position of having to provide services and reimplement various systems. **Ms. Carpenter** explained counties need predictability, thus having districts opt in and out will create numerous problems. They would prefer the five year requirement stand.

Informational Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 19.5 - 21.6}

Kathy Fabiano, on behalf of the State Superintendent of Public Instruction, testified her organization believes there are two issues which need addressing with the bill as written. First, there is a conflict between the proposed language and language contained in 20-9-212 of the Code. Since the county treasurer will no longer be receiving the entirety of a district's funds, this section too will need modifying. Second, with regard to federally funded grants, her office discourages use of these grants for investment because districts are constrained by a \$250.00 maximum return. The office also discourages the use of state grant funds for investment.

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 21.7 - 31.6}

{Tape: 2; Side: B; Approx. Time Counter: 1.6 - 15.7}

SENATOR JEFF MANGAN, referring to **Mr. Bubb's** testimony on the term of contract aspect, asked what length of time would be

acceptable. **Mr. Bubb** stated he would be willing to work with **Ms. Carpenter's** office on the question, and that he would prefer **Bob Vogel** of **MTSBA** be involved in those discussions. He also indicated his organization is amenable to suggestions on the issue, but strongly believes five years is too long.

SEN. MANGAN posed the same question to **Ms. Carpenter**. **Ms. Carpenter** stated her office is willing to work with **MTSBA** on the issue.

SEN. JOHNSON asked **Mr. Odermann** to provide information about the nature of Big Sky Investments. For example, who does the investment pool and what investments do they use. **Mr. Odermann** explained **MTSBA** created an affiliate called the Big Sky Investment Pool which is attached to the Texas School Boards' Association. Money invested through Big Sky, as a part of that investment pool, complies with Montana statutes on school district investment. **SEN. JOHNSON** asked whether the Texas plan charged a management fee. **Mr. Odermann** replied there is an investment fee for belonging to the pool, however, he is uncertain as to the exact amount charged. **SEN. JOHNSON** asked how the district measures the performance of this pool in comparison to other methods of investment. **Mr. Odermann** stated he receives a daily report on the activity of the investment pool, which he then compares to other programs such as those offered by the state. **SEN. JOHNSON** asked, in comparison to the state investment pool, how Big Sky is doing. **Mr. Odermann** replied they are nearly identical at present. **SEN. JOHNSON** asked why then would a district send money out of the state for investing. **Mr. Odermann** replied, although Big Sky pays a fee to belong to the Texas pool, actual investment dollars stay in Montana.

SEN. JOHNSON asked **Mr. Bubb** to explain how his organization is compensated for setting up the pool and making investment decisions. **Mr. Bubb** stated his organization charges an operating expense of no more than .22% per year based on daily pool assets. **SEN. JOHNSON** asked whether **Mr. Bubb** knew how much the state investment pool charges. **Mr. Bubb** replied in the negative. **SEN. JOHNSON** asked for additional clarification regarding operation of the pool under the laws of Montana. **Mr. Bubb** explained one of the most important aspects of their agreement with the Texas company is the required adherence to Montana investment laws. **SEN. JOHNSON** then posed several questions to **Mr. Bubb** regarding his level of comfort with having an out of state company in control of Montana investment dollars. **Mr. Bubb** indicated he was pleased with the agreement between the parties, and with their performance thus far.

SEN. STORY, referring to **Ms. Carpenter's** testimony regarding the need to reestablish systems in the event a district left and then returned, asked why the treasurer's office would also have to provide the warrant service. **Ms. Carpenter** replied, based on her understanding, the law requires a treasurer's office to provide the warrant service in the event they are investing a district's money. **SEN. STORY** inquired whether it was possible for the county treasurer to issue a single warrant per month to the district rather than to each vendor. **Ms. Carpenter** replied she was uncertain as to the answer.

SEN. STORY redirected his question to **Ms. Fabiano**. **Ms. Fabiano** explained a school district writes their own warrants which clear against the county treasurer's account. The only warrant written by a country treasurer would be one for investment. **SEN. STORY** stated it is his understanding that Great Falls is writing checks against a regular bank account. He asked if that is correct. **Ms. Fabiano** replied in the affirmative. She explained their account is set-up as a spending account with payments clearing against the account.

SEN. BUTCHER asked if Great Falls was making more money with Big Sky than had they stayed with the county. **Mr. Odermann** stated the district is not making more money through investments at the present time. However, by allowing the district to establish a bank account in which they do not have the wait times associated with the county warrant structure, they are saving money and time in other areas. He thinks part of the reason they are not realizing a greater return is due in part to their having moved to a smaller investment pool. **SEN. BUTCHER** inquired how large a component of the Cascade county pool was Great Falls school district. **Mr. Odermann** replied the district was approximately sixty percent (60%) of the county's pool. He also noted the district continues within the county's pool for money which must be processed through the county. Accordingly, their original ideas are not working exactly as planned.

CHAIRMAN GLASER inquired where the county invests money under its' control. **Ms. Carpenter** replied she did not have that particular information. She indicated she could provide the information early next week. **CHAIRMAN GLASER** requested she do so.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 15.8 - 18.2}

SEN. RYAN again explained this bill is necessary to provide relief to districts who choose to use the new investment system

efficiently; or, at least, allow them to escape being tied to an inefficient system. He believe as initial difficulties are corrected more districts will be willing to join, necessarily resulting in a large pool to invest. **SEN. RYAN** briefly addressed **SEN. JOHNSON's** concern with out-of-state investments, noting counties regularly invest money outside of the state. He believes the new program is becoming more effective, and with these changes will be even more efficient. He thanked the Committee for the hearing.

EXECUTIVE ACTION ON HJ 6

{Tape: 2; Side: B; Approx. Time Counter: 18.5 - 18.7}

Motion/Vote: **SEN. MANGAN** moved that HJ 6 BE CONCURRED IN. Motion carried 9-0; with **SEN. ZOOK** excused.

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. BILL GLASER, Chairman

TARI ELAM, Secretary

BG/TE

EXHIBIT (eds33aad)